

GEORGE PHIL MARTINEZ

IBLA 80-942

Decided December 29, 1980

Appeal from decision of the Nevada State Office, Bureau of Land Management, rejecting mining claim recordation filings NM 69702 through 69711.

Reversed and remanded.

1. Federal Land Policy and Management Act of 1976: Generally --
Federal Land Policy and Management Act of 1976: Recordation of
Mining Claims and Abandonment -- Mining Claims: Recordation

Under 43 U.S.C. § 1744(b) (1976) and 43 CFR 3833.1-2 the owner of an unpatented mining claim must file a map, narrative, or sketch depicting the location of his mining claim or site. A BLM decision dated Aug. 22, 1980, effectively advising a claimant that his claims are void because no map has been filed within 30 days of July 16, 1979, will be set aside as erroneous where the file contains a map of the claims which is BLM date stamped Aug. 3, 1979.

APPEARANCES: George Phil Martinez, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

The appeal is taken from a decision by the Nevada State Office, Bureau of Land Management (BLM), refusing to accept for filing appellant's notices of location and proof of labor submitted for certain mining claims designated by BLM as NM C-69702 through 69711.

The decision appealed from states:

You were * * * notified by certified mail which you received on July 16, 1979 that you had 30 days in which to submit the additional requirements. No map has been received to date. Regulations found in 43 CFR

3833.1-2 state that each claim filed for recordation shall be accompanied by a map.
[1/]

The file contains a map depicting appellant's claims which bears three BLM "received" date stamps. The map is twice stamped August 3, 1979, and it is also stamped September 10, 1980.

Appellant asserts that he twice filed the map and that any confusion with respect thereto must surely be attributable to BLM. Appellant further suggests that there may be some mistake as to the number of claims for which he filed notices of location. The file, however contains ten notices of location, all date stamped June 21, 1979, by BLM, and the map contains a sketch of these claims (named Apollo I through X) and their position in Eldorado Mining District, Clark County, Nevada. The map also contains a notation that indicates the claim names had been changed from Hopi No. 1 and Apache Nos. 1 through 3 to Apollo Nos. 1 through 4, as well as a memorandum of a telephone call advising BLM of the name changes.

[1] Since appellant had 30 days from July 16, 1979, within which to submit a map and the map in the file is date stamped August 3, 1979, the decision of August 22 stating that no map had been received to date is in error and the decision appealed from is reversed.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed and remanded.

Edward W. Stuebing
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Douglas E. Henriques
Administrative Judge

1/ Section 314(b) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(b) (1976), and 43 CFR 3833.1-2 require mining claimants to file a map, narrative, or sketch describing the claims.

